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ABSTRACT

Summarized are the findings of an American Institutes for Research (AIR) project to field test a data capture and dissemination system that would provide information for improving consumer protection in postsecondary education. Presented is a discussion of the methodology used, examples of consumer abuses cited in the literature, an analysis of consumer protection needs as described in the materials that were reviewed, and an explanation of the present system of postsecondary educational governance in the context of consumer protection with a special emphasis on the means employed to determine institutional eligibility for federal financial assistance to students. Criticisms of this system and suggestions for improving its consumer protection function are outlined. In conclusion, an assessment is presented of the possibilities for change within and among various elements of the postsecondary educational protection systems to enhance its effectiveness.

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CONSUMER PROTECTION STRATEGIES:

A LITERATURE REVIEW AND SYNTHESIS

IMPROVING THE CONSUMER PROTECTION FUNCTION
IN POSTSECONDARY EDUCATION

Carolyn B. Helliwell
Steven M. Jung

29 December 1975

U.S. DEPARTMENT OF HEALTH,
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INTRODUCTION

Postsecondary student aid programs administered by the federal government have helped many thousands of students to obtain an education they may not otherwise have received; however, some schools have engaged in questionable or abusive practices which have frustrated student attainment of the desirable educational goals envisioned by the Congress in establishing these aid programs.

In July 1975, the Office of Planning, Budgeting, and Evaluation (OPBE) of the United States Office of Education (USOE) contracted with the American Institutes for Research (AIR) to develop and field test a data capture and dissemination system which would provide information for improved consumer protection in postsecondary education. A previous technical report (Jung, Hamilton, Helliwell, McBain, and Fernandes, 1975) presented the basic rationale and plan for AIR's work, which is to be completed by the end of October 1976. One of the first tasks in developing the consumer protection data capture and dissemination system described in that report was to conduct a literature search for information related to postsecondary educational consumer protection. The topic proved to be one of intricate complexity capable of evoking both high emotions and reasoned analyses from representatives of numerous viewpoints. This document summarizes the findings of the search and the insights AIR project staff gained in conducting it.

A brief discussion of the methodology used in the search is followed by a section presenting examples of consumer abuses cited in the literature. The next section presents an analysis of consumer protection needs as described in the materials that were reviewed. An explanation of the present system of postsecondary educational governance in the context of consumer protection, emphasizing the means employed to determine institutional eligibility for federal financial assistance to students, follows. This system has been examined from several perspectives in the literature. Criticisms of it and suggestions for improving its consumer protection

function are outlined. The paper concludes with the project staff's assessment of the possibilities for changes within and among various elements of the postsecondary educational consumer protection system to enhance its effectiveness.

METHOD

The initial purpose of the literature search (as specified in AIR's project proposal) was to collect and review documents relating to school eligibility standards and educational consumer protection strategies. Thus, this document was originally conceived as a rationale for a school monitoring system which would provide information sufficient for: (a) regulatory decisions to grant and/or terminate institutional eligibility for federal student financial assistance programs, and (b) consumer decisions to avoid or deal properly with abusive postsecondary educational practices. Accordingly, information requirements for the rationale of the school monitoring system were specified as: (a) suggestions of minimum eligibility standards; (b) suggestions of summarization and distribution strategies for institutional data; (c) suggestions of policy and organizational changes to promote interagency communication for consumer protection; and (d) suggestions for supplying prospective enrollees with information about abusive practices.

During the first three months of the project, it became apparent that the concept of a school monitoring system was unworkable and probably unwise, in view of the prodigious risks it entailed. Past experiences with government monitoring suggest that its hidden costs in administrative red tape and restriction of initiative soon exceed its potential benefits in correcting underlying "evils." This seems to be the case regardless of the sincerity of those who are designing the monitoring system and the underlying good will of the majority of those to whom it is applied.

It was decided that the emphases on school monitoring and eligibility determination/termination standards should be replaced with a greater emphasis on providing information regarding the potentially

abusive practices of schools to consumers and to agencies with existing consumer protection responsibilities. This decision obviated the first information requirement listed above, suggestions of minimum eligibility standards. The search provided few practical suggestions regarding the second information requirement, suggestions of summarization and distribution strategies. Furthermore, project staff identified the Study Design and Analysis Plan (Jung et al., 1975) as a more appropriate place to address these suggestions. Consequently, the foci of this document became: suggestions of policy and organizational changes to promote interagency communication for consumer protection, and suggestions for supplying prospective enrollees with information about abusive practices.

Materials of five basic types were collected: (a) proposed and actual legislation, regulations, and guidelines regarding eligibility and school practices; (b) sample instruments, and materials for use in developing data collection forms; (c) studies, descriptions, analyses and bibliographies on eligibility and the operation of elements in the eligibility system; (d) discussions of the broader issue of consumer protection; and (e) articles from the popular press citing consumer abuses. Materials were identified by various means. Some were suggested by the project monitor or project staff. Other suggestions or documents were obtained from: the Accreditation and Institutional Eligibility Staff (AIES) of USOE; representatives of other USOE offices; congressional staff members; representatives of national and regional accrediting agencies and the Council on Postsecondary Accreditation; representatives of state education agencies and school approval bodies; representatives of the Education Commission of the States; representatives of other federal agencies such as the Veteran's Administration, Federal Trade Commission, Federal Inter-agency Committee on Education, and the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility; members of this project's State Agency, Research and Consumer Advisory Panels;

and other recognized experts in the field. The text and bibliography of each document received were carefully checked for additional leads. In addition, the materials collected during a previous AIR project, A Comparative Study of Vocational and Technical Programs Operated by Proprietary and Non-Proprietary Schools, (Wolman, Campbell, Jung, and Richards, 1972) were reexamined. Each document was reviewed to decide whether it was sufficiently significant to the purposes of the project to be abstracted. Documents were listed and filed in five categories: (a) abstracted resources; (b) statutes on eligibility and program regulations; (c) manual development resources; (d) instrument development resources; and (e) general resources not abstracted.

Abstracts were prepared according to a specified format. Each was headed with a standard American Psychological Association-prescribed bibliographic reference. Section 1 of an abstract contained a summary of the major points discussed, and was written to reflect or describe the general tone of the material. Section 2 included specific information on four topics: (a) minimum eligibility standards; (b) potential summarization and distribution strategies for institutional data; (c) interagency linkages and communication (including factors facilitating or inhibiting AIES' discharge of its responsibilities); and (d) consumer protection information needs and/or strategies. These topics were coded in the left hand margin of the abstract. References to AIES's responsibilities and the information needs of agencies or individuals contacting AIES were noted in Section 3. Nearly 60 documents of varying length and significance were abstracted. Approximately 50 additional sets of material were reviewed and filed. Appendix A contains a list of the located documents which are not referenced in this report.

REVIEW OF CURRENT STATUS

Abuses of Postsecondary Education Consumers

The consumerism movement which has swept the country has not left postsecondary education untouched. U. S. Representative Patricia Schroeder of Colorado repeated the 25 possible education consumer concerns identified by the U. S. Office of Education Task Force on Education Consumer Protection in her keynote address to the first national conference on "Consumer Protection in Postsecondary Education" held by the Education Commission of the States (ECS) in June 1974.

This litany of grievances is notable first by its length and variety--the grievances range from the fraudulent to the inconvenient--and second by its recognition of consumer abuses at all kinds of postsecondary education institutions.... (Schroeder, in ECS, 1974b, p. 8)

Series of articles in the popular press (e.g., the Boston Evening Globe, 25 March-1 April 1974; the Washington Post, 24 June-26 June 1974; and the Chicago Tribune entered into the Congressional Record - Senate, 10 July 1975) have called public attention to consumer abuse in proprietary (for-profit) vocational training institutions, although it is recognized that problems also occur in other types of postsecondary schools. The testimony of U. S. Commissioner of Education T. H. Bell before the Federal Trade Commission (Bell, 1974) summarizes the situation.

...the vast majority of postsecondary schools and programs are doing an honorable job of serving the Nation. However, a number of common malpractices have been identified in a relatively small number of schools. They are found not only in proprietary (private, for-profit) institutions but also in public and private-nonprofit institutions. These malpractices include:

- (1) misleading and inaccurate advertising;
- (2) indiscriminate and overly aggressive recruiting;

- (3) lack of full disclosure of salient institutional characteristics and information needed by the student consumer;
- (4) inferior facilities, course offerings, and staff;
- (5) false promises of job placement and earning opportunities;
- (6) inadequate refund policies (or failure to abide by stated policies). (p. 1)

Since the student "contracts" with an institution to purchase educational services s/he expects will be of personal benefit and then invests time, energy, and money in the pursuit of programs of self-development, students may be considered the primary consumers of education (Willett, in ECS, 1974, pp. 78-88, and FICE, 1975). They, of course, suffer when postsecondary educational institutions engage in abusive practices, but other groups are hurt as well.

The educational community is affected. Charges leveled at unethical institutions tend to implicate those that discharge their responsibilities fairly and well. The review of the Globe's allegations against proprietary schools in the Boston area conducted by AIES (Pugsley and Hardman, 1975) noted that enrollment and prospective student inquiries at proprietary technical and trade schools "rapidly declined after the publication of the series, by estimates ranging from 35 to 50 percent." (p. 13) Colleges are increasingly coming to recognize that public opinion affects their financial and academic affairs. Public confidence in higher education has declined in the past 25 years (Shulman, 1975). Surely, claims of malpractice and consumer abuse will not help the situation.

Other effects on postsecondary educational institutions are more subtle. Applying Gresham's law of economics to an educational system in which diploma mills operate, Dickey and Harcleroad (1975) stated this principle:

As a society places greater value on the attainment of academic degrees, the degrees from colleges and universities whose academic programs are superficial and inferior will undermine the value of similar degrees from institutions whose educational offerings are excellent. (p. 4)

Members of the general public also lose when postsecondary educational institutions engage in malpractice. As the proposed "Postsecondary Education Consumer Protection Act of 1975" (H. R. 2786) put it, "The Nation has suffered substantial losses of human, financial, and educational resources because of the unethical actions of some administrators, recruiters, and other persons associated with eligible postsecondary educational institutions." (Bell and Pettis, 1975, p. 2) Taxpayers are hurt when public funds do not achieve the purposes for which they were intended and when disillusioned students default on guaranteed loans. The Subcommittee on Educational Consumer Protection of the Federal Interagency Committee on Education (FICE, 1975) has analyzed the wide ranging effects of problems associated with federal educational funding.

When Federal educational programs, such as the Federally insured student loan program, are abused through malpractice, there are four (sic) major results:

- (1) Students who are to be the beneficiaries of the programs do not get the full benefits intended; they often lose out instead.
- (2) The Nation, which seeks to develop its human talent, is not getting an adequate return for public funds expended.
- (3) Federal officials, who have a responsibility to safeguard public funds, find their efforts undermined by those who distort the system through unethical and questionable practices, whether by administrators, students, or financial managers.
- (4) All forms of fraud, abuse, or diversion of funds, tend to undermine the integrity of American society and should be combatted.
- (5) High student dropout rates and subsequent loan defaults. (pp. 9-10)

Much more has been written about abuses in the proprietary occupational education sector than about those that occur within ivy-covered walls of higher education. Proprietary schools' advertising and recruiting practices come under heaviest attack. Steven Newburg-Rinn (in ECS, 1974a), an attorney with the Bureau of Consumer Protection of the Federal Trade Commission, considers the following

practices to be unfair and deceptive:

- exaggeration of demand for graduates in recruitment
- use of "help wanted" ads to obtain sales leads
- provision of training that is not necessary to obtain the job
- provision of courses that are of little value in obtaining jobs
- exaggerating the function, capacity or success of placement services or claiming they are free
- making deceptive claims that graduates are hired by prestigious companies
- implying that connections between the school and industry or government exist or will result in jobs for graduates
- falsely implying that a certain level of education is not necessary or helpful to graduates in getting jobs
- misrepresenting accreditation status, exaggerating its significance, or implying all courses offered by an institution are accredited when only some are
- falsely implying selective enrollment or indicating that an enrollment test can predict success in the occupation for which the school provides training
- misrepresenting the salaries graduates earn or have the potential for earning
- falsely implying that the quality of instruction offered is adequate to prepare students for jobs
- failing to arrange part-time employment after offering it
- implying recognized experts are part of the faculty when in fact they do not actively participate in instruction
- implying salespersons are objective counselors or advisors
- using negative selling techniques which imply stricter enrollment qualifications than the school has or disarm the student and make it unlikely s/he will ask searching questions
- misrepresenting course objectives implying training leads to more prestigious jobs than graduates are likely to obtain
- providing inadequate experience to obtain jobs
- inducing students to sign up immediately by offering price reductions that actually are not really a saving or by stating that classes are filling up when in fact they start frequently or are not full
- granting diplomas that require little or no effort and are worthless

- using deceptive "talent hunt" contests
- misrepresenting job qualifications

While this list would seem exhaustive, the AIES review of the Boston Globe's series (Pugsley and Hardman, 1975) mentions additional items: salemen's use of veterans' educational benefits or the FISL program as enticements to enroll students (loans may be represented as grants or scholarships, as well); enrollment of persons who are unlikely to benefit from training; and failure of school officials to submit advertising for review by state education department officials as required by Massachusetts State law. Another practice the Federal Trade Commission (FTC) considers deceptive is failure to disclose all information necessary for students to make informed decisions whether to obtain education or training, or take a particular course. Schools' policies and rules, and licensing requirements in the occupations for which students are being trained are examples of the types of essential information schools may not disclose to students.

Harold Orlans and his collaborators (Orlans, Levin, Bauer, and Arnstein, 1974) have discussed at length examples of fraud and malpractice at accredited colleges and universities. Examples of many of the same practices for which proprietary schools are criticized are presented in journalistic style. Business malpractice and fraud, athletic scandals, and advertising and recruiting improprieties are cited as evidence that consumer protection is needed in all sectors of postsecondary education.

Consumer Protection Needs

The consumer protection issue has been analyzed in various ways. Perhaps the most straightforward conceptualization is Hoyt's (in ECS, 1974a, pp. 39-57) description of two complementary approaches. "Quality control" can protect consumers from practices and conditions which they are unlikely to detect initially. The "comparable facts" approach can provide consumers with information to enable them to make wise choices.

Nelson (in ECS, 1974a, pp. 57-64) identified two basic thrusts in the consumer movement in postsecondary education. The first thrust is to hold accountable the person or organization to whom the consumer pays money. Minimal conditions of accountability in postsecondary education include doing no harm (permitting or encouraging someone to waste time is harmful), delivering the goods, and providing redress of grievances. The second thrust reflects an insistence that the government perform the role of an umpire, making and enforcing rules for traffic between buyer and seller so that equity between them may be achieved in what should be regarded as a contractual relationship.

Rights and responsibilities of participants in the postsecondary educational marketplace have been repeatedly addressed. From the consumer's point of view, Willett (in ECS, 1974a, pp. 78-88) has listed these rights: "the right to choose products and services, the right to accurate information, the right to health and safety..., and the right to be heard and to have...dissatisfaction duly registered." (p. 84) She believes that a balance between the rights and responsibilities of all participants in education can be brought about by the same mechanism used in the traditional marketplace--investigations of consumer concerns, due process, and legislation.

The most complex analysis of educational consumer protection was presented by Brad Baker, a graduate student at Indiana University (in ECS, 1974a, pp. 16-21). He presented a matrix (reproduced in Figure 1) of consumer policy strategies and consumer rights and responsibilities. Consumer policy strategies are ranked in order of preference--education, then information, then protection. If Baker's matrix is rearranged slightly, the four basic themes of educational consumer protection that emerged in the literature become apparent. They are regulation and redress mechanisms, information, and education.

The regulation aspects of consumer protection will be discussed in the next section of this chapter. Redress and information/education needs of consumers will be presented here.

CONSUMING EDUCATION: RIGHTS & RESPONSIBILITIES

CONSUMER RIGHTS					
Consumer Policy	Choose Freely	Be Informed	Be Heard	Be Safe	To Redress
Education	Decision making, Budgeting, Nature of market, Economy	Generic "product" data: Information sources	How to assert consumer rights	User manuals, Importance of health and safety	AVAILABLE CHANNELS AND REASONABLE EXPECTATIONS
Information	Buying criteria, Buying advice	Independent consumer info programs	Market research	Safety certification, Health inspection	PREPURCHASE, POINT OF PURCHASE AND POST-PURCHASE NOTIFICATION
Protection	Anti-trust, Stop hi-pressure and deceptive tactics	Informative advertising, Claims substantiation	Complaint handling machinery	Minimize health and accident risks	ADJUSTMENT, COOLING-OFF, REFUND OR ARBITRATION MECHANISMS
	Choose Wisely	Keep Informed	Sound Off	Safety First	Seek Redress
CONSUMER RESPONSIBILITIES					

A third dimension of the matrix would show the makers of consumer policy. Please note that this matrix assumes the right to consume (right to education).

Special thanks to H. B. Thorelli for permission to revise his copyrighted work.

Figure 1

Redress. The FICE Subcommittee on Educational Consumer Protection (1975) has stated: "No organized and well-publicized mechanism exists at any level to handle complaints concerning educational consumer problems." (p. 63) The First National Conference on Consumer Protection in Postsecondary Education (ECS, 1974a) recommended:

That there be made available at each postsecondary educational institution adequate administrative procedures, involving student participation, for acting upon student complaints pertaining to institutional learning experiences as well as student complaints pertaining to institutional management of student life, activities or disciplines. (p. 3)

This recommendation indicates that the institutions themselves do not have adequate procedures. Orlans, et al. (1974) noted that "government and private agencies have no uniform way of handling [education-related complaints] and many are shuttled back and forth inconclusively." (p. 453)

Consumer Bulletin No. 13 prepared by the Federal Trade Commission (FTC) (reprinted in U. S. Congress, 1974c, pp. 18-41) lists 8 agencies or organizations students may contact if they are not satisfied with the way their school handles their complaints. The advice given to students is: "Don't give up;" contact a state licensing authority, accrediting agency, consumer protection agency, Better Business Bureau or Chamber of Commerce, media, newspaper "action line," government representative, government agency (AIES or VA), or the FTC; and "...if all else fails, you can sue the school." (p. 40) Such advice is likely to be discouraging!

We assume that states' procedures for complaint handling and redress vary across states, although these procedures were not discussed in the materials identified for the purpose of this review. The Orlans report cites USOE's criticism of state agencies' indifference to consumer interests. (Orlans, et al., 1974, p. 455)

In order for a State Agency to be recognized by the Commissioner of Education for approval of public postsecondary institutions for eligibility for federal financial assistance, the agency is required to have "written procedures for the review of complaints pertaining to institutional or program quality as these relate to the agency's standards, and demonstrate ...that such procedures are adequate to provide timely treatment of such complaints in a manner fair and equitable...." (AIES, 1975b, p. 4) However, only 12 state agencies are currently so recognized. A model redress procedure is available in the Model State Legislation prepared by the Task Force on Model State Legislation for Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees of the Education Commission of the States. (ECS, 1973) Basically, the procedure requires the student to file a complaint with the state agency or commission granted authority to approve or authorize institutions under the legislation. After investigation, the agency or commission passes judgment on award of relief or restitution. It may also issue cease orders, impose penalties or, revoke authorization or salesmen's permits. Judicial review of judgments and civil or criminal penalties are possible. The Veteran's Administration relies on its state approval agencies to monitor complaints from its regional offices. The VA does not maintain a central complaint file. O'Neill (1975) reported that the 2 State VA Approval Agencies he contacted receive very few complaints.

Private accrediting agencies must meet a requirement similar to that of the state agencies in order to receive the Commissioner of Education's approval. The actual efficiency of their grievance and redress procedures is uncertain, however. Orlans, et al. (1974) suggest that the proprietary school accrediting agencies have accepted and executed promptly and responsively a role as USOE's intermediary on complaints regarding refunds, advertising, and soliciting practices of their member institutions, but that the regionals and some specialized accrediting agencies have been unreceptive to complaints, regarding such a "policing" function as incompatible with their basic purposes.

AIES refers most of the complaints it receives to the accrediting agencies for investigation, although in special cases it may investigate itself or consult USOE's regional offices or appropriate state agencies (Herrell, 1974). Again, it is unclear from the documents reviewed what types of redress are typically afforded the complainants in these cases.

Although it would appear from this review that complaint and redress mechanisms for consumers of postsecondary education are diverse, fragmented, uncoordinated and unreliable, suggestions for meeting this consumer protection need have been proposed. They will be discussed in the recommendations chapter of this report.

Information. Providing educational consumers with complete, accurate, and up-to-date information on their various postsecondary options is a much discussed consumer protection strategy. The underlying assumption is that with information about available alternatives the consumer is able to choose the one that best meets his or her interests and needs, and avoid inferior institutions or programs that may engage in abusive practices. It is important to note a distinction between information needed for improved educational decision making and information needed for consumer protection. The latter is but a small subset of the former. In making decisions about whether or not to seek a postsecondary education, what type of education to seek, what institution to attend, etc., students need a great deal of information. This includes not only the various options available at particular institutions and the requirements and costs of each, but also insight into the world of work and an individual's own goals, interests, abilities, limitations, etc. Information of this type is a great aid in decision making. However, students also need to know about institutional practices which can mislead them in their decision making and frustrate their goal attainment once a decision has been made.

The literature on postsecondary consumer protection information

discusses three basic categories: (a) objective data about institutions, their programs and their practices; (b) judgments regarding their quality; (c) and information about regulatory agencies' decisions regarding institutions and programs. Accrediting agencies and other groups that assess institutions' quality normally require only the first type of information. Regulatory agencies at the federal (e.g., Federal Trade Commission) and state (e.g., licensing bodies) levels, and those agencies charged with determining institutional eligibility for financial assistance, usually use the first two types of information, although they could certainly profit from knowing about the regulatory decisions of other agencies or groups. Postsecondary education consumers could benefit from all three major types of information in making decisions to avoid or deal properly with institutions which have a high frequency of potentially abusive practices.

Postsecondary educational consumers currently have little access to quality judgments or regulatory agency actions. Accrediting agencies publish lists of only the institutions that have achieved accredited status. Orlans, et al. (1974) criticized accrediting agencies and USOE because the names of institutions which were denied accreditation, disaccredited, put on probation, found in noncompliance with designated standards, or which never applied for accreditation are not published. The deliberations of accrediting agencies and the reports of evaluation teams are confidential. To our knowledge there is no group that rates the quality of a majority of postsecondary alternatives and distributes this information widely. Regulatory agencies are repeatedly criticized in the literature for not sharing information among themselves, not to mention educational consumers.

Consumers' needs for "comparable facts" type of information to facilitate informed choice are apparently not being met either. The participants of Seminar I of the Second National Conference on Consumer Protection in Postsecondary Education (ECS, 1975) concluded that "Due to the minimal availability of adequate information about

alternatives within postsecondary education, this right [students' right to access to information] can be classified as not being available." (p. 3) Orlans, et al. (1974) highlighted the need for "presenting a balanced, not promotional, picture" (p. 25) of institutions, while Olson (1974) and ECS (1975) noted that appropriate information should be provided on the specific programs and courses within an institution. Several sources (Hoyt in ECS, 1974; Orlans, et al., 1974; Olson, 1974; and ECS, 1975) underscored the need to provide consumers not with sterile facts, but with information to answer questions of personal relevance.

Two other seminars held at the conference referenced above specifically addressed the types of information consumers of postsecondary education should receive. Seminar II: Student Information Needs and Systems provided the following analysis.

- a. Access information such as program descriptions, costs, payment policies, refund policies, admissions standards, financial aid availability, procedures and criteria for eligibility, health facilities, programs of study, counseling, accreditation, grading policies and requirements for graduation.
- b. Process information such as academic or class-work requirements, patterns of student interaction, student-faculty relationships and disclosure of problem-solving agencies both within and outside the institution.
- c. Outcome information in cases where schools claim their education or training results in certain outcomes. It should be incumbent on those schools to support those claims with verifiable information. (p. 5)

Seminar V: Full Institutional Disclosure prepared the checklist of informational items for consideration by all agencies and groups developing a disclosure policy reproduced in Figure 2.

The seminar participants propose four types of information which should be disclosed by postsecondary institutions and recommend consideration of a number of specific informational items within each type.

1. Basic institutional identification and rules of governance:

- a. Name and address of the institution, of the institution's key officials and governing authorities;
- b. A calendar showing legal holidays, beginning and ending dates of course work and other important dates;
- c. The total student enrollment at the institution;
- d. Rules and standards governing admissions, and granting of credit for prior education and training;
- e. Rules and standards concerning student conduct and grounds for dismissal relating to misconduct;
- f. Rules and standards relating to academic progress, minimum grades and conditions for dismissal for academic reasons.

2. Financial costs and student financial obligations:

- a. Detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, rentals, deposits, housing fees and all other charges;
- b. Policies relating to tuition and fee increases in periods after students have enrolled;
- c. Policies relating to the refund of the unused portion of tuition, fees and other charges in the event the student does not enter courses or withdraws from the institution. These shall include disclosure of:
 - how notice of cancellation is to be given,
 - to whom notice of cancellation is to be given,
 - how effective date of cancellation is to be determined,
 - maximum elapsed time between cancellation and acknowledgement of cancellation,
 - maximum elapsed time between cancellation and refund,
 - an explanation of nonrefundable fees or charges, and
 - an explanation of policies relating to holder in due course;

- d. Description of institutional participation in federal grant and loan programs, including availability of these funds to students, conditions of eligibility and terms of repayment;
- e. Institutional financial statement, and reference to other sources of information on institution's financial viability.

3. Educational resources, processes and content:

- a. Description of available facilities and equipment;
- b. Descriptions of institutional, program and course-level educational objectives;
- c. Extent and nature of the institution's placement assistance;
- d. Description of methods used by institution, if any, to determine employment needs in the occupations or professions for which training is provided;
- e. Description of process and resources (e.g., guidance counseling) by which institution facilitates choice of program and/or major field of study by students;
- f. Qualifications of instructional, administrative and counseling staff;
- g. Description of range of optional ways in which students can complete educational requirements (including self-study, lecture attendance, laboratory work, etc.);
- h. Student-teacher ratio.

4. Indicators of institutional effectiveness:

- a. Names of institutions, if any, which will accept credit transfer, without examination of the student, including an explanation of the credit transfer arrangement;
- b. Information concerning ability of institution to meet federal or state licensing requirements, and recognition of the institution by accrediting agencies, associations and unions;
- c. Numbers of students who graduate and percentage of graduates relative to percentage of students who enroll;

d. Relationship of education and training provided to employability:

- number and percentage of graduates who obtain employment in the occupation of field for which trained,
- number and percentage of students who obtained employment in the occupation or profession for which training was provided prior to graduation,
- number and percentage of graduates who obtain employment in a closely related occupation or profession,
- number and percentage of graduates who received advancement in present employment which can be directly attributed to the completion of the program,
- number and percentage of graduates who did not obtain employment but were available for employment,
- number and percentage of graduates for which employment information is not available, and
- names of companies, firms, corporations, etc., which employed recent graduates;
- e. Salary ranges of recent graduates;
- f. Sample survey data on students in residence and students who have graduated concerning the relationship between their expectations of the institution and the realities of attending the institution;
- g. Evaluations of instructional performance.

Figure 2

Suggestions for possible additions to the disclosure checklist were identified from the discussions of consumers' information needs presented by various authors. Stark (1975) made the point that the higher education community should devise means of presenting information to students to assist them in finding their proper niches in order to avoid drop-outs, dissatisfied customers, and poor public relations. Others have suggested that profiles of an institution's entering freshmen might help portray its social and intellectual climate to potential students (e.g. ECS, 1975; and Olson, 1974).

An institution's plans for change was another area of information Stark (1975) and Olson (1974) believe should be disclosed to consumers. Stark was most concerned with projected tuition and fee increases, while Olson listed plans for significant changes in the status of any program as well as long range institutional plans and a summary of significant actions taken by governing bodies in the past year.

Available student services and activities is another area of consumer information identified in the literature. One of the recommendations of the First National Conference on Consumer Protection (ECS, 1974b) included the statement that data should be available on a school's job placement service and on other assistance available to students and graduates. Olson (1974) elaborated this recommendation by adding health and counseling services, student project activities and organizations, and student orientation materials. Stark (1975) believes it is important for consumers to know what services an institution provides to assist them in making career choices and planning programs to attain their goals.

Stark (1975), Olson (1974), and ECS (1975) suggested items of information that could be added to three of the four basic categories of information presented in the disclosure checklist reproduced in Figure 2. In category 2: Financial costs and student financial obligations, it was suggested that consumers might profit from knowing about the financial assistance received by an institution's

students, especially the numbers of recipients and average amount of assistance received; about the institution's Guaranteed Student Loan Program (GSLP) default rates; and from receiving a Securities and Exchange Commission-type prospectus from institutions. Faculty members' areas of teaching responsibility and the results of ratings of them by review committees and student evaluation systems might be added to category 3: Educational resources, processes, and content. Profiles and placements of students leaving an institution (dropouts, stopouts, and graduates), attrition rates and students' reasons for leaving could be included in category 4: Indicators of institutional effectiveness.

Bell (1974 and 1975) and ECS (1975) both mentioned that post-secondary educational consumers need more career and occupational type information and training in decision-making in order to make wise choices. This need, while real and probably possessing consumer protection implications, is beyond the scope of this project and will not be discussed further. However, one of the recommendations of the First National Conference on Consumer Protection in Post-secondary Education convened by the Education Commission of the States (ECS, 1974b) was "That all postsecondary education institutions should consider offering some educational training and experiences which would familiarize students with their consumer citizen roles." (p.3)

Current Systems of Postsecondary Governance, Institutional Eligibility, and Consumer Protection

Two aspects of consumer protection have been discussed: grievance and redress procedures; and provision of comparable information to consumers to facilitate choice of postsecondary educational options. In this section three systems related to postsecondary education will be discussed: the governance system; the system for determining institutional eligibility for federal financial assistance; and the so-called consumer protection system.

Governance. The main assumption underlying the governance system's role in consumer protection is that by regulations, monitoring, and enforcement of rules institutions will be prevented or stopped from abusing students or potential students. The current system for governing postsecondary education consists of three elements: the triad of the federal government, the states, and the private accrediting agencies. Each element has its own unique interests and functions, but they are also interrelated and share common concerns and activities.

The federal government's authority to regulate education is limited by the Constitution. The United States has no counterpart to the Ministry of Education found in other countries. The government's major function is establishing priorities and providing funds for expenditure according to these priorities. It does not have the power to regulate education except through "spending power" and "commerce power." The government can establish purposes and conditions for expenditure, but educational institutions can avoid these requirements by refusing to accept funds. Any other federal involvement in education derives from Congress' authority to regulate interstate commerce. Establishing wage and hour standards for employment in higher education, regulating labor-management relations, and the Federal Trade Commission's jurisdiction over proprietary schools are examples of commerce power. It has not been used extensively in education and probably will not be invoked often in the future due to the tradition of state and private control over education. Spending power is likely to remain the primary legal path for federal involvement in education. (Kaplin, 1975)

The states have broad regulatory powers to match their broad educational functions. They can claim all governmental powers not denied them in the federal constitution or their own constitutions. They have spending power, power over their own public institutions, and broad regulatory powers (police powers) over private activity

affecting public health, safety, or general welfare. Their powers extend only to their boundaries, however, and joint action in the form of uniform legislation and enforcement is difficult to achieve. State power in the interstate or national area is limited by the commerce clause of the federal constitution which prohibits state regulations that discriminate against out-of-state enterprises. (Kaplin, 1975)

There are basically two levels of state regulation of non-public postsecondary education, although these levels are not found in every state nor are they always distinct. The first level is incorporation or chartering which does occur in every state. Incorporation laws, which set forth the conditions a non-public institution must meet to come into existence, vary in specificity among states. The second level is licensure. This is a more substantial form of regulation because it includes educational requirements as well as corporate ones. Not all states have licensure requirements and their strength and enforcement varies where they exist. Licensing laws may authorize the awarding of degrees or regulate the use of titles and names. States also review the academic credentials of applicants for professional and occupational licensure and in so doing judge the courses of study and institutions from which applicants have graduated. (Kaplin, 1975)

Accrediting agencies are voluntary, private associations of member institutions. They were originally established so that a peer review of the quality of training offered at member institutions could be conducted and the public could be assured that the graduates of certain professional schools (e.g. medicine and law) were competent to practice. Today the primary function of accreditation is disputed. USOE, which by statute relies on the judgments of accrediting agencies it recognizes to establish institutional eligibility for federal financial assistance programs, considers their primary function to be one of certifying that an institution

has met established standards of quality. However, the accrediting community has recently disputed this view, arguing that institutional or program self-improvement is accrediting's main goal and that accreditation only certifies that an institution or program is meeting its own stated purposes. (Kaplin, 1975)

There are two basic types of accreditation. Regional and some national accrediting associations conduct institutional accreditation. An entire school program is thus accredited. Specialized accreditation is conducted by national associations which accredit one department or program within an institution, usually one that has already been regionally accredited. (FICE, 1975)

Accreditation is usually obtained through a process of self study and outside evaluation in the areas of: purposes of the institution or program; organization and administration; educational program; financial resources; faculty; library; student personnel; and other standards relating to nontraditional programs. (Dickey, 1975) Accreditation is usually conferred for an indefinite period, but it is normally subject to periodic renewal. Limitations and conditions may be imposed for renewal, but these are usually not made public. (FICE, 1975) Accrediting agencies normally publish only a list of the institutions that have achieved accredited status.

Accrediting agencies owe their existence and legal status to the common law of voluntary or private associations and to state corporation law. Their powers are limited by the absence of direct public sanction to aid in enforcement, and by the common law of associations as enforced by the courts which requires reasonable standards to be applied fairly. (Kaplin, 1975)

Eligibility. Federal financial assistance to postsecondary education has a long history beginning with grants to public lands for college endowments. After the second world war funding increased in support of research, access and institutions. (The Second

Newman Report, 1973) Recently a larger portion of federal assistance has been allocated directly to students rather than institutions. (Wolanin and Gladieux, 1975) The Office of Education, Veterans Administration, Social Security Administration, National Institutes of Health, National Science Foundation, Defense Department, Justice Department and other branches of government have all provided undergraduate and graduate student support. (The Second Newman Report, 1973) The system for determining institutional eligibility for federal financial assistance to students is described below. The assumption underlying its main function in consumer protection is that eligibility is granted only to those institutions which meet minimal standards and do not engage in malpractice and that the eligibility of those institutions found to be in violation of standards is limited, suspended or terminated.

The Veterans Administration operates the largest of all the federal student financial aid programs. It relies on and reimburses State Approval Agencies (SAA's) to examine programs (not institutions) and designate them eligible to enroll veterans who receive benefits. The SAA may accept the accreditation status of a school as sufficient evidence for granting approval if the accrediting agency itself is recognized by the U. S. Office of Education. The SAA's can require any school to pass a detailed state inspection on fourteen standards dealing with quality of instruction, facilities, personnel, record keeping, disclosure, financial soundness, advertising, and refunds. Proprietary schools generally are subjected to more stringent inspection than public or private non-profit institutions. (O'Neill, 1975)

The Office of Education, the other major source of student financial aid, administers five student assistance programs: Basic Educational Opportunity Grants (BEOGs); Supplemental Educational Opportunity Grants (SEOGs); College Work-Study (CWS); National Direct Student Loans (NDSL) and Guaranteed Student Loans (GSL).

Institutional (and/or program) eligibility for these aid programs is established at two levels. General eligibility determinations are performed by the Accreditation and Institutional Eligibility Staff (AIES). AIES reviews an institution's application according to certain criteria which vary slightly among public and private non-profit institutions and proprietary schools. These criteria relate to the types of students admitted (high school graduates or equivalent), legal (state) authorization to operate, length of program and degree or training offered, type of control, accreditation (or certification by three accredited institutions to which credits offered by the institution are transferable) and civil rights compliance. (Herrell, 1974) The second level of eligibility determination is conducted by the individual program offices in USOE. Eligibility determinations for specific assistance programs are performed according to the specific statutory regulations of those programs.

The Office of Education relies on the accrediting agencies to assess the qualitative factors in eligibility. In order to justify this reliance, OE must, in essence, accredit the accreditors. The Veterans Readjustment Assistance Act of 1952 was the first piece of legislation which required the U. S. Commissioner of Education to publish a list of nationally recognized accrediting agencies and associations which he determined to be reliable authorities as to the quality of training offered by an educational institution. This requirement has been repeated in subsequent legislation. Federal agencies outside OE also rely on the Commissioner's list. (Herrell, 1974) State agencies are also recognized for approval of public postsecondary vocational education and nurse education. (AIES, 1975b)

AIES is responsible for administering the process by which accrediting and state agencies secure initial and renewed recognition. It also provides support to the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility (ACAIE)

which is mandated to review policies and legislation, to suggest changes, recommend criteria and procedures for recognition of accrediting and state agencies, and review applications for recognition and make recommendations upon them. (AIES, 1975a)

An initial set of criteria for recognition was published in 1952. They were revised in 1969 and again in 1972. Continuing revision is underway. Herrell (1974) provides an overview of the current set of criteria.

Features of the revised Criteria for Recognition of Accrediting Agencies may be grouped into four broad categories which seek to insure the functionality, responsibility, reliability, and autonomy of nationally recognized accrediting agencies. More specifically, these elements include, in operation, the following:

a. Functionality: An accrediting agency should be regional or national in its scope or operations and maintain a clear definition of its activities, both as to geographic area and nature and type of institutions or programs covered. It should have adequate administrative and financial support to carry out its accrediting programs, and should have access to a sufficient number of competent and knowledgeable personnel to participate on visiting teams, on its decision-making committee, and as consultants. The agency shall also have developed clearly written procedures for each level of accreditation status, including institutional or program self-analysis and on-site reviews by a visiting team.

b. Responsibility: Considerations here include: clearly identified need for accreditation by the agency in the field in which it operates; responsiveness to the public interest; adequate provisions for due process in accrediting procedures; demonstrated capability and willingness to foster ethical practices among the institutions or programs which it accredits; a program of evaluation of educational standards.

c. Reliability: The agency demonstrates wide acceptance of its policies, procedures, and decisions; regular review of its standards and procedures; experience as an accrediting agency; and representation in its policy and decision-making bodies of the community of interests directly affected by the scope of its accreditation.

d. Autonomy: The agency must demonstrate the autonomy and independence of its decisions from outside influences. (p. 10-11)

ACAIE is directed to develop criteria for specific categories, vocational training institutions and higher education institutions, for which there are not recognized accrediting agencies or no alternative route to eligibility. Only one accrediting agency is normally recognized in a geographic area or field of specialization. (AIES, 1975a)

As of January 1975, 61 accrediting agencies were recognized and placed on the Commissioner's list. (AIES, 1975a) In addition, several were recognized for their preaccreditation categories.

The triad of postsecondary educational governance is formally interrelated when one independent body relies on the judgments of another. The federal government relies on accrediting agencies to identify eligible institutions and programs. It relies on states' licensing of institutions and their identification of eligible institutions and programs of nursing and public vocational education. The states often rely on accreditation by exempting accredited institutions or programs from certain requirements, and on the federal government for recognizing accrediting agencies and publishing directories indicating the accredited status of schools.

Accrediting agencies do not formally rely on the other elements but depend upon the states to recognize the existence and degree-granting authority of institutions as a prerequisite to accreditation, and to protect and recognize their own legal status as corporations. They also rely indirectly on federal and state support of accreditation. (Kaplin, 1975)

Consumer protection. The consumer protection system for postsecondary education in the United States was described in the FICE (1975) subcommittee report. As with the governance and eligibility systems previously discussed, the federal government, states, and accrediting agencies play a role. Consumer organizations are also involved.

The states and accrediting agencies seem to do little in terms of protecting educational consumers beyond what has already been described. However, Willett (in ECS, 1974a) noted that each state has appointed an assistant attorney general for consumer protection.

A variety of agencies provide assistance to educational consumers including "national consumer advocate associations, Better Business Bureaus, municipal consumer officials, various ombudsmen, and the growing number of groups seeking to organize, defend and protect consumers. Trade unions have also stepped up their interest in the consumer field, and private business is becoming increasingly responsive." (FICE, 1975, p. 39) While linkages between these groups and other elements of the consumer protection system have been weak, the National Invitational Conferences on Educational Consumer Protection sponsored by FICE, ECS, and others may help to strengthen them.

Various federal agencies are slowly developing educational consumer protection policies. The FICE report states:

...consumer protection is a relatively recent development, juxtaposed to the more historic concept of letting the buyer look out for himself. The activities of Federal agencies tend to be uneven because education, historically a primarily nonprofit field, has surfaced only recently as an area where customers need a greater measure of protection. Few agencies have established consumer protection for students. Most lack master or central files for complaints, analysis of complaints, outcome feedback regarding educational consumer protection, and standard grievance procedures for students with educational problems. (p. 20)

The consumer protection policies of four federal agencies are noted here, although at least twelve others (Bureau of Health Resources Development, Social Security Administration, Department of Defense, Department of Housing and Urban Development, Bureau of Indian Affairs, Law Enforcement Assistance Administration, Immigration and Naturalization Service, Department of Labor, Federal Aviation Administration, Federal Communications Commission, Postal Service,

and Civil Service Commission) have engaged in some form of activity in this area.

The Office of Consumer Affairs (OCA) in the Department of Health, Education, and Welfare serves mainly as a liaison between private consumer organizations and federal agencies responsible for educational consumer protection, although it does handle some complaints. "OCA basically promotes educational consumer protection from within the Federal and State governmental structure, and advocates 'self-help' mechanisms within the private sector." (FICE, 1975, p. 21)

The AIES and commissioner's advisory Committee are the components of the Office of Education whose activities have greatest bearing on consumer protection, since many federal and other agencies base eligibility decisions on the judgments of recognized state approval and private accrediting agencies. AIES also makes general institutional eligibility decisions, and reviews complaints. The Committee makes recommendations on legislative changes regarding institutional or program eligibility for Federal funds.

The Federal Trade Commission has been active in consumer protection in the proprietary vocational sector of postsecondary education. It has been answering consumer complaints for several years, has published guidelines to inform schools of what are considered deceptive and unfair practices, has conducted a multi-media consumer education campaign, has engaged in litigation, has evolved a plan for federal/state cooperation and coordination, and has proposed a binding trade regulation rule which requires information disclosure, pro rata tuition refunds, a ten-day cooling-off and reaffirmation period, and disclosure and advertising substantiation. (FICE, 1975)

The FICE Subcommittee on Educational Consumer Protection is concerned with achieving better coordination of the federal agencies involved in educational consumer protection, determining a federal mechanism for this purpose, exploring legal questions regarding the role of the government, developing and disseminating information,

and facilitating federal-state cooperation and coordination. FICE has cooperated with ECS and other agencies in preparing the Model State Legislation, sponsoring the National Invitational Conferences on Educational Consumer Protection, and developing educational materials. (FICE, 1975)

Mutual perspectives. Governance, eligibility, and consumer protection in postsecondary education are three complex systems built upon interrelationships of the federal government, accrediting agencies and the states (and, in the case of consumer protection, other agencies as well). Quotes from several of the sources reviewed for this project reveal, to some degree, how the various members of the "triad" view each other.

The federal government supports accreditation. The U. S. Commissioner of Education T. H. Bell (1974) has said:

The Office of Education supports the concept of non-governmental accreditation and believes that this evaluation process contributes to the positive strengthening of each institution and to postsecondary education generally. For these reasons the office supports accreditation as one significant factor in establishing the eligibility of educational institutions and programs to participate in Federal financial aid programs. (p. 7)

S. W. Herrell, Acting Deputy Commissioner, Bureau of Postsecondary Education, U. S. Office of Education, in testifying before the Federal Trade Commission (1974) hinted at another aspect of the government's relationship toward accrediting agencies:

...I believe that we would be remiss in not paying tribute to the willingness of accrediting agencies to submit themselves to review by the Federal government and to undertake the effort to change which is frequently required of them in order to comply with the Office's criteria for recognition. (p. 10)

Later in the same statement he noted:

...the Office must deal sympathetically with the accrediting agencies' attempt to address what they see as their own goals,

needs, and purposes. The objectives of some accrediting organizations occasionally are not targeted fully on broader public or societal goals. Under present regulations, there often is nothing that can be done when such unfavorable impact occurs. (p. 21)

However, both Herrell and Bell indicated in identical sentences that the federal government is engaged in nudging accrediting agencies toward public accountability:

We believe that the new Criteria [for recognition of accrediting agencies] significantly enhance our ability to encourage improvement in the accreditation process particularly in the areas of responsiveness to the public interest and protection of the student. (Bell, 1974, p. 8; and Herrell, 1974, p. 10)

Dr. John Proffitt, Director of AIES and Executive Secretary of the Advisory Committee on Accreditation and Institutional Eligibility stated the position more directly:

Our most pressing task, then, in the quest for accountability must be to devise new mechanisms for regeneration in accreditation. (Proffitt, 1971, p. 9)

Accrediting agencies regard federal efforts with concern. Dickey and Miller (1972), at that time Executive and Associate Directors of the National Commission on Accrediting, suggested that the growing relationship between the Government and accrediting agencies might lead to greater direction and regulation of the latter by the former. They fear that this would "result in the federal government gaining a beachhead in establishing educational standards and practices. The threats are sufficient to warrant serious consideration of future relationships..." (p. 138) They assume that "Growing federal control over accreditation carries with it the potential for considerable control over educational practices and standards. This violates the traditional role of the federal government in education, if not its constitutional authority." (p. 141) Dickey and Miller would be likely to count themselves among the "many [who] believe accreditation can best serve society if it is totally free of domination or control

by governmental interests." (p. 141) On the other hand, Dickey (1975) noted in a later paper:

...that the accrediting agencies are of real importance to the federal government...it would appear that the criteria being used in institutional accrediting are as satisfactory sources of reliable information as can be found today. There is no reason to believe that a similar system under other auspices would service more effectively. Accrediting agencies...perform assessment of quality within the framework of their standards and the federal government should not have to develop its own system which would be a duplicative effort, perhaps no more effectively performed. If special problems arise in the eligibility sector and in the uses of federal funds, then it would seem appropriate for the governmental agencies to focus on these specific problems and issues rather than to utilize a "shotgun" approach. The nongovernmental accrediting mechanisms should continue to be used for the general determination of institutional or programmatic quality. (p. 8-9)

The federal government seems to be in favor of "...increased reliance on State agencies to provide added consumer protection in postsecondary education.... One salient advantage in using State agencies, when they are efficient and effective, is that they generally can provide closer surveillance and oversight, and can react more quickly, than can a regional or national organization or agency." (Herrell, 1974, p. 24) The qualifier in the sentence above suggests that not all states are viewed as performing the consumer protection function satisfactorily. Bell (1974) listed OE's efforts to improve the eligibility determination system. Efforts to strengthen the state approval process were "based upon the premise that governance of education is a fundamental responsibility of the States." (p. 5) Consistent with OE's policy of "...shoring up educational consumer protection in general..." (Herrell, 1974, p. 20), the Federal Interagency Committee on Education's Subcommittee on Educational Consumer Protection (1975) recommended that:

Federal assistance and guidance should be provided under appropriate guidelines to State and private agencies and organizations for the following purposes: developing greater competence; improving systems analysis and design in the educational evaluative process;

and encouraging the exchange of information between organizations concerned with consumer protection and education. Any such assistance should be for developmental rather than operational purposes. (p. 55)

Representatives of the states believe that "the federal role in consumerism in education has been minimal." (Ashler in ECS, 1974a, p. 8) Ashler summarized their position:

Since it is presumed and generally accepted that education with all its ramifications is a responsibility of the individual state, then responsibility for the educational processes, its regulations and avenues or redress for wronged consumers must also rest with the state. (p. 10)

Clark (1975) noted that "...critics still maintain that the states have not done a good or thorough job of providing accountability." (p. 2) While he acknowledged that state efforts could be improved, he cited a research brief prepared by the National Association of State Administrators and Supervisors of Private Schools which "indicated that states had made a more concerted effort to regulate post-secondary vocational education than was heretofore known or acknowledged." (p. 4)

Harder (in ECS, 1975) elaborated in the states' role:

The real answers to the problems of consumer protection in postsecondary education should come from the states, and, more specifically, from state legislatures. I don't agree that the states have abdicated their responsibilities in this area or that they do not have the tools they need to come up with meaningful solutions. (p. 15)

It is consistent with the states' desire to do more in the area of consumer protection that they believe "accreditation was never designed to eliminate fraud or thwart the practices leading to deception and misrepresentation." (Clark, 1975, p. 6) "...the critics of state accreditation are wrong when they support a system [of regional and national accreditation] that is badly flawed, does

not resemble its original purpose and is sought for the wrong reasons." (Clark, 1975, p. 5)

...we do not advocate that fifty states become fifty national accrediting bodies. Only that they become 50 strong approval bodies for the protection of their citizenry and a healthy educational climate. We do not advocate the demise of accrediting agencies, quite the contrary, we advocate the tripartite theory of educational governance. We must have the states, federal government and accrediting bodies work together. Let the states determine that a school is ready to provide educational services and let the states provide the enforcement if needed, to correct abuses. Let the accrediting bodies provide educational excellence and let the federal government coordinate and assist. (Clark, 1975, p. 12)

Dickey and Miller (1972) do not consider the threat of state regulation of accrediting agencies to be of the same magnitude as that posed by federal regulation. They stated:

Even though state governments make extensive use of accreditation status for licensure purposes and funding, federal relations with accrediting agencies remains the issue in question. The states have never established formalized relationships with nongovernmental accrediting agencies. Particular accrediting agencies may be specifically mentioned in state legislation, but this has not entailed formal application or submission of policies and procedures for administrative review outside the legislative process. There seems little likelihood that the states could effectively exert unified influence on or control over nongovernmental accreditation, even if they desired to do so. (pp. 138-139)

REVIEW OF RECOMMENDATIONS

It is generally recognized that consumer protection in post-secondary education is inadequate. Virginia H. Krauer, Special Assistant to the President for Consumer Affairs, presented the problem (in ECS, 1975) this way:

Where can the educational consumer turn for help? Who is looking out for his interests? Who has the authority to crack down on the abuses? The answer is everyone and therefore no one. (p. 13)

Almost everyone, it seems, has offered some suggestions for better protecting educational consumers. It is encouraging that problems in this area are receiving increasing attention in the literature. The range and variety of solutions proposed are as extensive as the backgrounds and interests of those who offer them. In this section, suggestions for meeting some of the major consumer protection needs presented earlier will be discussed.

Redress

Suggestions for improving grievance and redress procedures for the educational consumers may be categorized by the group or agency assigned primary responsibility for them. Willett (in ECS, 1974a) argues that the student is in the center of the educational marketplace and therefore suggests that student organizations publish their problems with schools to their peers, establish their own complaint process, and work with schools and other consumer protection groups or agencies to find solutions. Stark (1975) and ECS (1974b) both recommend that the institutions themselves establish and disseminate grievance and redress procedures. Seminar III of the Second National Consumer Protection Conference (ECS, 1975) proposed that these procedures range from informal to structured and that student ombudsmen assist in implementing them. Stark further suggested that if intrainstitutional mechanisms were inadequate,

an interinstitutional tribunal be established to avoid the possibility of a governmental redress mechanism.

The National Advisory Council on Education Professions Development (NACEPD, 1975), and another seminar at the Second National Conference (ECS, 1975) proposed that the states supply grievance and redress mechanisms. One mechanism described earlier in this paper is available in ECS's Model State Legislation. The "Gatekeepers" report of the National Advisory Council cited above recommended that the states' licensing authorities keep statistical records of complaints, offer redress, and "crack down" on repeated offender institutions by suspending their licenses to operate. Still another seminar at the Second National Conference suggested that institutions should publish their refund policies, the states should require consistency among them, and students' appeals should be handled by the institution, the state, or the courts.

Numerous calls for a central national complaint clearinghouse have been made (e.g., FICE, 1975; ECS, 1974b and 1975; and Bell, 1974). Three functions for the clearinghouse have been proposed, although not all authors suggest each one. The clearinghouse could provide redress itself or refer a complaint to an appropriate agency for action, it could serve a research and communication function alerting appropriate agencies to investigate possibly offending institutions, and it could deal with institutions engaged in malpractice by enforcing regulations or encouraging other agencies to do so. One of the recommendations in the FICE (1975) Subcommittee's report Toward a Federal Strategy for Protection of the Consumer of Education illustrates the second function well.

There be established a Federal Interagency Center on Educational Consumer Complaints with the primary purpose of developing and coordinating interagency activities in this area. Among the functions of the center would be that of collecting, recording and disseminating consumer complaints and information to appropriate Federal agencies. In addition, the center would

attempt to improve links of communication between consumer organizations, Federal and State agencies, accrediting agencies, and education groups. It would act as a research instrument on volume and nature of complaints as well as an early warning system against possible educational abuses. (p. 50)

Standard complaint forms would be necessary for the operation of a central clearinghouse. Knauer (in ECS, 1975) noted that her office is working on developing such a form. In Appendix IV of its report, the FICE Subcommittee (1975) proposed two alternative complaint forms. The simpler version invited the student to register his or her complaint directly with the proposed federal clearinghouse. Stark (1975) and Bell (1974) noted the need to assess the legitimacy of complaints before they were used for any of the clearinghouse's three purposes.

Information

Of the three types of consumer protection information discussed earlier, most of the suggestions for providing students with more and better information concerned the first type--objective, comparable data on postsecondary educational alternatives. Some authors did address providing consumers with judgments of institutions quality, but most of the discussion surrounding regulatory agencies' decisions concerned improving information flow between regulators.

Disclosure of objective information on alternatives to postsecondary educational consumers was a popular consumer protection strategy in the literature reviewed. As Orlans, et al. (1974) noted, "To inform students adequately, some critical and possibly damaging institutional information must be published..." (p. 29) However, institutions have rights as well as consumers, and some caution must be introduced into the calls for complete disclosure. The Orlans report recommends that "a series of trials should be undertaken to determine the kinds of information that can and cannot, should and should not be regularly collected and/or issued about all

postsecondary institutions and special groups and samples." (p. 26)

Seminar V of the Second National Conference on Consumer Protection (ECS, 1975) indicated that the majority of the items on its proposed disclosure checklist reproduced earlier in this document should be disclosed, "though the intended purposes, types of institutions and audiences to be served by the disclosure would have to be specified before the list could be applied to a particular situation." (p. 7) Furthermore, the Seminar report indicated that disclosure requirements intended to benefit students should distinguish three types of information:

- (a) information which prospective students actually use in determining what type of postsecondary institution to attend;
- (b) information which students, in the judgment of some authorities, should use as a basis for enrollment decisions; and
- (c) information about postsecondary education which students have a right to have, upon inquiry, and which should therefore be available in the public domain. (p. 7)

These distinctions are particularly salient given the enormous costs that would be incurred in attempting uniform disclosure of all the various types of information suggested in the consumer protection literature for the entire universe of postsecondary consumer options. Orlans, et al. (1974) consider such an undertaking impossible.

Finally, the literature notes various problems with collecting and disclosing certain types of data in meaningful ways. Employment, earnings, and attrition information has received the most comment (e.g., Bell, 1974; and ECS, 1975) as being problematic. Various strategies have been proposed for making information about postsecondary educational options available to consumers. Basically, the proposals fall into two types: one in which the institutions themselves make the information available directly to consumers; the other in which information is collected from institutions and made available to consumers by some outside agency.

It is usually suggested that institutional disclosure occur in catalogs or similar documents. The Fund for the Improvement of Postsecondary Education recently funded a national project in which selected institutions are preparing "educational" prospectuses to describe the type of experiences they offer. The intent of the project is to determine what institutions themselves can do to set information standards (DHEW, 1974). Stark (1975), speaking to the higher education community, noted that institutional efforts aimed at improving communication with educational consumers are alternatives to government regulation of this area.

Federal and state agencies have already begun to mandate better information flow to consumers. The "terms of agreement" institutions must sign to participate in the GSLP require them to make good faith efforts to inform prospective students about the institution, its programs, faculty, and facilities. Special additional requirements apply to institutions offering occupational training. They must disclose employment and earnings data on their graduates to students prior to enrollment (USOE, 1975). In interpreting fair trade laws that affect proprietary vocational training schools, the Federal Trade Commission issued guidelines on affirmative disclosures prior to enrollment (FTC, 1972). The guidelines indicate that written information on academic progress policies, additional costs, facilities, equipment, class size, placement services, and other facts likely to influence enrollment decisions should be furnished to prospective students before they sign enrollment contracts. The ECS (1973) Model State Legislation which has been adopted by several states (e.g., Tennessee, North Carolina, and Montana) requires institutions to provide students and prospective students with a catalog or brochure describing the programs offered, program objectives, length of program tuition and other charges, cancellation and refund policies, and other facts in order to obtain state authorization to operate. Further regulation of institutional disclosure is expected if pending legislation and regulations are enacted (e.g., FTC's proposed

trade regulation rule for proprietary vocational and home study schools, FTC, 1975; Representatives Bell and Pettis Postsecondary Education Consumer Protection Act of 1975, Bell and Pettis, 1975; and proposed amendments to the Higher Education Act called the Student-Financial Aid Act of 1975, U. S. Congress, 1975).

Recommendations for establishing clearinghouses or data banks were the major strategy proposed for outsiders to provide information to consumers on all postsecondary educational institutions or programs. This type of clearinghouse should be distinguished from that mentioned in the preceding section for handling student complaints. None of the sources reviewed suggested that the federal government establish and run a clearinghouse for information on postsecondary options, but the Second National Conference on Consumer Protection (ECS, 1975) indicated that the federal government should establish standard definitions for information and provide funding for national level and state level clearinghouses. Both national conferences and the Federal Interagency Task Force recommended that ECS be involved in establishing the national level clearinghouse (ECS, 1974b and 1975, FICE, 1975). The lack of specificity in these recommendations suggests they will most likely remain dreams. According to the Orlans report (Orlans, et al., 1974), "we do not now have available lists of all non-degree granting postsecondary schools and all unaccredited degree-granting institutions..." (p. 27) and "a single, uniform description...of all postsecondary schools would be ponderous, extravagantly expensive, impractical, and largely useless." (p. 31)

Local counseling services were another strategy proposed (in ECS, 1975) for providing information to educational consumers. Two recommendations from the Second National Conference on Consumer Protection indicate the flavor of these suggestions.

Since a process and programs do not exist at present to provide the necessary information, and since it is the right of every citizen to have equal access to postsecondary education, it is the responsibility of both the state and federal governments and their appropriate agencies (such as the state labor departments) to provide and make available the information and materials necessary for application and attendance in postsecondary education institutions. This includes the training of individuals to provide counseling services at a localized level to disseminate information about institutions, admissions and financial aid. (p. 4)

Access, process and outcome information should be made available to all types of prospective and current postsecondary consumers in environments where they can get the information when they want it. For example, information could be made available through schools, employment offices, shopping centers, social service agencies, libraries and adult education councils, to name only a few. Therefore the seminar recommends continued development of community counseling services and educational information systems. (p. 5)

The Orlans report (Orlans, et al., 1974) made an interesting point about providing consumers with information. It suggests that critical and possibly damaging information about institutions must be made available to consumers from non-institutional sources. The question of which agency should publish what information is best answered by examining the degree of controversy surrounding the information. "Innocent material can be issued directly by government agencies but experimental, evaluative, or contentious reports should be financed by private sources, including foundations and commercial publishers." (p. 30)

One of the Orlans report's more controversial recommendations was that "named colleges, professional, vocational, and correspondence schools in areas of greatest student interest should be rated and classified by objective indices and subjective judgments." (p. 33) Earlier in the report, it was noted that "Nothing would do more to revive the value of accreditation to the public than a restoration of the classifications of institutional quality or character which were widespread in its formative years." (p. 5) Seminar I of the Second

National Conference on Consumer Protection in Postsecondary Education (ECS, 1975) made this recommendation:

Private voluntary accrediting agencies should continue to provide traditional services, and reviews and classifications should become published public information. (p. 3)

Accrediting agencies violently oppose doing this (see Dickey, 1975) and the proposal is fraught with practical and methodological problems. However, quality ratings of institutions would be potentially valuable types of consumer protection information.

Systems of Postsecondary Governance, Institutional Eligibility, and Consumer Protection

The preceding recommendations for improving consumer protection dealt mainly with students' responsibilities for protecting themselves through informed decision-making and grievance and redress procedures. This section presents a brief overview of some of the suggested means other groups with responsibilities for consumer protection could employ to better discharge this function.

Institutions. Institutions themselves can play a vital role in consumer protection. Stark (1975) called for school administrators and boards of trustees to develop new inter-institutional self-regulating arrangements to preclude the need for government regulation. Miller (in ECS, 1974a) suggested four ways in which higher education can move to promote consumer protection:

- Cooperation with legislative bodies to develop laws governing diploma mills and other questionable practices;
- cooperation with federal agencies to develop adequate safeguards for the administration of federal programs;
- cooperation with accreditation groups to assist in the upgrading of standards and methods (including resistance to governmental accreditation); and
- assessment by individual institutions to assure that the right kind of climate for effective learning is provided and that the best job possible is being done in teaching programs, research activities, and service to people.

The most specific and comprehensive set of recommendations were made by the seminar on institutional responses at the Second National Conference on Consumer Protection in Postsecondary Education (ECS, 1975). An outline of these recommendations is reproduced in Figure 3.

As previously discussed, institutions could do much to aid in protecting consumers through disclosures. Olson (1974) suggested each one should publish a central disclosure document which references additional information kept in a central location to which the public has access. In addition, FICE (1975) and Stark (1975) suggested that a document informing students of their rights and responsibilities be disseminated. Finally, it was noted (by Nelson in ECS, 1974a; ECS, 1975; and Stark, 1975) that clearly written contracts between institutions and students which specify the services to be provided and exact charges would aid in consumer protection.

Accrediting agencies. Accrediting agencies have been repeatedly criticized for failure to protect the student's interests and for not being reliable indicators of quality of education or training offered at member institutions (e.g. Orlans, et al., 1974). These criticisms may not be entirely fair given the interests accrediting agencies represent, their major goal of helping institutions improve in achieving the institution's own objectives, and their lack of resources and desire to serve as policemen. Few expect them to act as policemen, but merely perform their quality certification function better. The consumer protection aspects of accreditation could be improved by the participation of a wider range of public representatives in their decisions. (Herrell, 1974; and Report on Higher Education, 1971). This suggestion has been included in USOE's new criteria for recognition of accrediting agencies (AIES, 1975a).

A novel proposal to enhance accreditation's contribution to consumer protection was put forth by Dickey and Harclerod (1975). They suggested that accreditation agencies adopt procedures for

1. Institutions should assure the public of their concern about truth in advertising by one or both of the following:
 - a. an internal publicity screening committee or person;
 - b. an ombudsman or consumer affairs officer on campus.
2. Each institution should develop and publish its own code of ethics:
 - a. Accrediting agencies should prepare model codes of ethics for their members;
 - b. Accrediting agencies and state associations should review an institution's adherence to its own code of ethics.
3. Institutions should encourage passage of the model legislation as applied to full range of postsecondary education.
4. Greater attention should be paid to preadmission counseling and postsecondary orientation and continued counseling once a student has arrived.
5. Postsecondary institutions should make available complete and accurate information to all preadmission counseling agencies and groups.
6. Institutions should recognize the value of peer group information and utilize students both in orientation and counseling. (Upper classmen should be involved in orientation planning and execution.)
7. Institutions should accept the obligation to foster awareness of students of their own rights and responsibilities.
8. Each institution should develop effective means of identifying student concerns:
 - a. Accrediting agencies should encourage institutions to establish such mechanisms;
 - b. Institutions should employ a student ombudsman or equivalent;
 - c. Student participation should be encouraged in:
 - course and curriculum planning,
 - faculty evaluation,
 - policy decisions in student affairs;
 - d. Institutional administration should make clear to faculty and students the impact of student input on decisions plus open as many lines of communication as possible.
9. A grievance procedure including the right of appeal should be developed in each institution and made visible and easily accessible to students. The procedure should move from informal to structured methods of conflict resolution as necessary.

Figure 3

evaluating postsecondary educational institutions and reporting to the public on the achievement of stated goals and objectives. Called educational audits, and modeled on the audits of businesses required by the Securities and Exchange Commission, these procedures would go beyond a financial audit to examine educational output data. Changes would be required in accreditation if it were to conduct educational audits; however, trends are currently drawing accrediting agencies into more public accountability, and the audits represent one way of meeting public expectations that accreditation certifies the level of quality of an institution or program.

States. Strengthening states' licensing or approval and enforcement capabilities is a popular theme in improving postsecondary education consumer protection. States are the "triad" member with the major responsibility for governing postsecondary education. If they could perform their functions better, then consumer protection would be advanced significantly (NACEPD, 1975).

The Education Commission of the States (ECS) "in response to a number of requests from several states [federal agencies]... accrediting agencies, and other[s]...for guidance and assistance on how to deal with practices in postsecondary education which could be considered questionable, unethical, or fraudulent," (ECS, 1973, p. 277) established a task force to consider the problem and draft model state legislation. The resulting legislation suggests criteria an institution must meet in order to operate and continue operation, and contains procedures for investigating institutions and revoking their licenses if they fail to meet the criteria. It also requires agents of institutions to obtain permits. These permits may be withdrawn if the rules set forth in the legislation are violated. Violations may also result in civil or criminal penalties.

The FICE Subcommittee on Educational Consumer Protection (1975) recommended that ECS and the National Association of State Administrators and Supervisors of Private Schools assist "those states which do not have 'approval' legislation, or which are interested in streamlining...

existing legislation...[to adopt]...legislation at least as strong and proconsumer as the Model Legislation." (p. 55).

However, Clark (1975) felt that licensing as it is now conceived is too simple a procedure with too many loopholes. He suggested that the states concentrate on approval procedures and develop enforcement capabilities to eliminate fraud and deceptive practices. His ideas will be further discussed later in this section. Bell (1974) also stressed the need for better state enforcement in his testimony before the Federal Trade Commission. In a section which presented USOE's efforts to strengthen the state approval process he noted that "...the issues that confront us today include not only the development of regulatory laws, but also how such laws are administered and enforced." (p. 7)

The first recommendation of the first ECS Consumer Protection Conference (1974b) stated:

1. That the states should provide by legislation or by administrative mechanisms, minimal consumer protection safeguards that would assure proper redress for every student residing in the state. Illustrative of minimal safeguards are:
 - a. Equitable refund and restitution policies for tuition and fees.
 - b. Licensing and bonding requirements for agents.
 - c. Specifications for contractual relationships.
 - d. Minimum standards relating to advertising and recruitment. (p. 3)

Seminar I of the Second Conference (ECS, 1975) suggested that federal incentive funds be provided to the states to encourage them to accept policing responsibilities as is done by the Veterans' Administration. This seminar also recommended that states participate in a proposed mandatory national disclosure mechanism by withdrawing licensure or imposing sanctions when information is not provided by institutions.

Federal government. The role of the federal government in consumer protection has been extensively discussed. The Second Newman Report (1973) in speaking of the federal influence in postsecondary education in general, made a point that applies equally well to consumer protection. There is a tendency in government to seek solutions to problems through regulation without considering whether providing incentives would be a better strategy to achieve accountability. Most of the suggestions for improving the federal role in consumer protection concerned improving regulation, making better rules and establishing effective enforcement mechanisms with regard to institutional eligibility for federal financial assistance.

The Eligibility Task Force of the Institute for Educational Leadership (1975) summarized the federal responsibility for consumer protection in postsecondary education in this way:

Most of the federal funds institutions now receive are in the form of student aid. Because there is some governmental responsibility implied for the protection of the users of such vast sums of public funds, and because these funds are appropriated to achieve specific national goals (principally equal access), the federal government has a role in protecting the student from abuses by postsecondary institutions. (p. 9)

The task force proposed four conceptual models for alternative eligibility systems: (a) a disclosure system separated from accreditation and based on comparable institutional information; (b) a state approval system; (c) a private approval system based on accreditation decisions; and (d) a universal system in which all state licensed institutions are eligible and a federal office assumes authority for limiting, suspending, or terminating eligibility on the bases of complaints and other information. It also organized solutions to eligibility questions into eleven categories. These range from minor modifications of the present system with its reliance on accreditation, through increased state agency responsibility, to total federal responsibility discharged by a separate national commission or the Commissioner of Education using truth in advertising

requirements or Federal Trade Commission or Securities and Exchange Commission type authority.

The tripartite system. Of the literature reviewed for this project, only the Second Newman Report (1973) recommended outright abandonment of the current tripartite system for determining eligibility for federal funds. It proposed that eligibility be separated from accreditation and be based on institutional disclosure and "an administrative judgment that an institution has the capacity to perform its stated mission." (p. 108) Other sources proposed alterations in the current tripartite system to deal with specific problems.

A major theme in the literature was giving states more responsibility in the eligibility determination process. This is consistent with their basic responsibilities for governing education and with the recommendations presented earlier to upgrade states' licensing and enforcement capabilities. Several authors were concerned with providing a route to eligibility for schools that do not have one now because no accrediting agencies exist to grant them accredited status. Pinkham (1975), Fulton (1975), and Kaplin (1975) recommended that state agencies be permitted to assume this function for these schools. The "Mondale" amendment granted states the authority to approve public vocational institutions for eligibility for federal student financial assistance. Clark (1975) argues that:

If the U. S. Commissioner says that states can be authorized to approve public postsecondary vocational education, then it must follow that they should also be authorized to approve private postsecondary vocational education since in many cases, the state agency has the responsibility for both. (p. 7)

He believes "There are currently, 46 states who could, with a few simple alterations, or perhaps none whatsoever, stand ready to be approved by the U. S. Commissioner of Education." (p. 8) He

cited from a paper of Dr. Jack Leslie which listed eight advantages of states' approval of all vocational institutions within their borders. It appears that others would agree (e.g., John Proffitt, Director of AIES, in a memorandum on proposed statutory revisions, 1975; Fred Pinkham, former director of the National Commission on Accrediting, 1975; William Kaplin, in a report for the Council on Postsecondary Accreditation, 1975; and Pugsley and Hardman, members of AIES, in their Boston Globe Report, 1975). Providing technical assistance and training to states to help them upgrade their capabilities in eligibility determination was widely recommended (e.g. NACEPD, 1975; FICE, 1975; Pinkham, 1975; Orlans, et al., 1974; and Bell, 1975).

The accrediting agencies' role in eligibility determination was a serious issue in improving educational consumer protection. Concerns revolved around the basic issue of relying on accrediting agencies for quality decisions. Orlans, et al. (1974) stated the problem very directly. "The common belief that regional accreditation is an assurance of institutional quality or even excellence cannot be sustained." (p. 253) If this is the case, then a major assumption about the tripartite eligibility system's function in consumer protection (that only quality institutions attain eligibility) is false.

Three types of solutions to this issue in eligibility determination as it relates to consumer protection were proposed. The first was reducing reliance on accreditation decisions. This theme parallels calls for assigning more responsibility to the states, as Pinkham noted: "Private accreditation should...continue as part of the national eligibility system until the states can properly handle eligibility." (p. 2) The Orlans report (Orlans, et al., 1974) objected to the monopoly accreditation has over eligibility. It proposed creating competition among accrediting agencies and establishing a private committee to identify "useful" postsecondary schools so that unaccredited schools could have a

route to eligibility. The first Newman report (Report on Higher Education, 1971) proposed that the Regional Examining Universities might have a role.

The second type of solution was improving the accreditation process so it could serve as an effective indicator of institutional quality in eligibility determinations. As indicated earlier, this seems to be USOE's stance. Millard (1975) recommended that accrediting agencies develop a multiplicity of standards to deal with the unique aspects of various institutional objectives and that more agencies be developed so that all types of postsecondary institutions could be covered. Kaplin (1975) suggested that accrediting agencies should accommodate their operations to the increasing responsibilities of the other triad members and provide consultation to them.

The third type of proposal concerned regulating accrediting agencies more carefully to demand that they meet expectations of eligibility. This theme is best represented in the proposed Postsecondary Education Consumer Protection Act of 1975 (HR 2786 introduced by Representatives Bell and Pettis, 1975). The bill requires the Secretary of DHEW to revise criteria for recognizing accrediting agencies to insure that these agencies accredit only institutions that meet provisions of the Act. The second recommendation of the First National Consumer Protection Conference (ECS, 1976) echoes this theme:

...The U. S. Office of Education should maintain continuous review of its standards utilized for designation of recognized accrediting bodies, with issues of consumer protection in mind. (p. 3)

Another body of suggestions for improving the eligibility system concerned changing the requirements institutions must meet to become eligible. Many suggestions for mandating disclosure were made. The Terms of Agreement required of schools participating

in the Guaranteed Student Loan Program is an example of this. The form requires that the chief executive officer insure that his or her institution complies with the laws and regulations of the Higher Education Act, including distribution of information. Proposed disclosure requirements for eligibility most often concern vocational schools and deal with providing information on dropout, completion and placement rates, and refund policies (e.g. FICE, 1975; Pugsley and Hardman, 1975; U. S. Congress, 1975; and FTC, 1975).

Other suggestions for changes in requirements concerned making the rules for various assistance programs consistent (e.g., ECS, 1975; Orlans, et al., 1974; and Pugsley and Hardman, 1975), and the need to consider whether the lack of homogeneity in the universe of postsecondary education might require different rules for different types of institutions (Bell, 1974; and Kaplin, 1975). Furthermore, Kaplin suggested that the government consider whether general eligibility requirements or specific program eligibility requirements would best serve the federal interest. Kaplin (1975) suggested that changes in eligibility requirements should be based upon a better knowledge of what is signified by the determinations of each triad element and a better understanding of what the federal government desires to signify by eligibility. He asked the provocative question:

To what extent can the interests which the federal government seeks to further through eligibility determinations be better protected through use of compliance investigations and suspension-termination mechanisms which operate after the initial determination of eligibility? (p. 25)

Monitoring, enforcement, and termination of eligibility. The above question introduces yet another body of recommendations for improving the eligibility system through monitoring, enforcement, and withdrawal of eligibility. The First Consumer Protection Conference (ECS, 1974b) accompanied the recommendation cited earlier

(that states establish consumer protection safeguards) with the suggestion that USOE consider withdrawing funds from those schools that fail to comply with them. Suggestions that eligibility be tied to disclosure are usually accompanied with provisions for restricting or withdrawing eligibility if information is inaccurate or not forthcoming (e.g., ECS, 1975; and Millard, 1975). Pinkham (1975) indicated that "...the federal government must develop guidelines for eligibility and exercise surveillance over the system with authority to terminate in cases of violations." (p. 2)

The new regulations that require Terms of Agreement for participation in the Guaranteed Student Loan Program (DHEW, 1975) also include provisions for limitation, suspension, or termination of eligibility. The Committee on Government Operations (U. S. Congress, 1974c) and Pugsley and Hardman (1975) both recommended that the commissioner's authority for limitation, suspension, or termination be extended to all federal student and institutional financial assistance programs. Proposed amendments to the Higher Education Act of 1975, HR 3471 Student Financial Aid Act of 1975 (U. S. Congress, 1975), authorizes the commissioner to prescribe such regulations for programs funded under the Higher Education Act. Fulton (1975), however, argues that the commissioner already has unused statutory authority to affect the eligibility of institutions and stop practices of institutions that are contrary to the purposes of federal programs. Pinkham (1975) suggests that "the administration of the eligibility portions of federal programs in education should be coordinated by one agency with authority to restrict or terminate eligibility." (p. 2)

He believes AIES should be entrusted with this responsibility and given a boost in status and statutory authority to handle it. He further recommends that the "Advisory Committee on Accreditation and Institutional Eligibility must...design and implement a system covering the full extent of determining, monitoring, and terminating eligibility." (p. 4)

Other improvements in the federal consumer protection role. In addition to improving the eligibility system, other suggestions were made for improving the federal role in consumer protection which could be categorized as ways the government could assume more responsibility for the effect federal funds have on students. Virginia Knauer (in ECS, 1975) noted that information on the causes of defaults on guaranteed student loans is necessary and that if a student defaults because he was misled, means should be found to place the burden on the school. The Committee on Government Operations (U. S. Congress, 1974c) recommended that particular emphasis be given "to safeguards against enrolling students who are unlikely to benefit from the proffered training." (p. 12) The new GSLP regulations (DHEW, 1975) and the Postsecondary Education Consumer Protection Act of 1975 (Bell and Pettis, 1975) have attempted to deal with this issue. Both FICE (1975) and ECS (1975) suggested the government relinquish its Holder in Due Course Doctrine (HIDC) regarding student loans.

HIDC maintains that when a purchaser signs a note as payment or partial payment--perhaps for a car or for tuition--the financing institution holding the note is the HIDC and entitled to receive payment even if the car is defective, or never delivered, or is delivered but not as represented at the time of sale. This mechanism leaves the student with a loan payable for an education that may not be delivered. (FICE, 1975, p. 18)

The Postsecondary Education Consumer Protection Act of 1975 (Bell and Pettis, 1975) includes provisions for requiring institutions to provide refunds to students when the institution has failed to provide the educational benefits contracted for. Tuition insurance to protect students in the event of school closure was another widely recommended strategy (e.g., FICE, 1975; ECS, 1974b and 1975; Orlans, et al., 1974; and Bell and Pettis, 1975). Two other fairly obvious things the federal government can do to enhance consumer protection are study the problem further (e.g., Kaplin, 1975; Orlans, et al., 1974) or legislate consumer protection directly

as the Federal Trade Commission seems to be attempting in its proposed Trade Regulation Rule (1975).

Improved coordination and communication. The preceding pages have discussed ways in which institutions, the triad members (individually and as a system), and the federal assistance programs could improve their consumer protection functions in postsecondary education. Many observers have noted that a major improvement in the consumer protection system could be brought about simply by providing greater coordination and communication among them. Willett (in ECS, 1974a) has said:

No one participant in any educational consumer problem can affect solutions singlehandedly. The consumer, school, lender and regulatory and other consumer agencies must work together to identify the problems and find solutions. (p. 83)

Kaplin (1975) believes "the immediate goals should be: increased understanding of each element's capabilities; sharper emphasis on each element's strong points; clearer definition of each element's function; and better division, coordination, and interrelationship of functions...each element should adopt procedures for sharing information with one another on consumer abuses in postsecondary education and for informing one another of adverse determinations against institutions or programs engaging in consumer abuse." (pp. 26-29) The FICE (1975) report recommended that assistance and guidance should be provided to encourage the exchange of information between organizations concerned with consumer protection and education.

Reports by Orlans, et al. (1974) and the National Advisory Council on Education Professions Development (1975) both cite cases where loss of state licensure or accredited status have not resulted in loss of institutional eligibility for federal financial assistance because of lack of knowledge of these decisions. Commissioner of Education Bell (1975) has stated "...there is no existing formal

mechanism for cooperation, and the result is an information vacuum." (p. 5) Orlans, et al. (1974) suggest that "information about changes in the eligibility of postsecondary schools for federal and state programs, FTC cease and desist orders, restrictions imposed by the courts or state officials, and accrediting agency actions should be more promptly and widely exchanged." (p. 28) Bell (1975) recommended a central consumer protection clearinghouse that "...would provide for sharing of information with groups such as regulatory agencies, accrediting associations, state-wide coordinating agencies and federal agencies..." (p. 3) The purpose of this clearinghouse is somewhat different from the other two types of clearinghouses mentioned previously: one for information on student complaints, and one serving as a data bank on institutional information. Although it is possible and was suggested (e.g., ECS, 1974b) that one clearinghouse serve multiple purposes, the unique function of the clearinghouse recommended here is the exchange of regulatory information or information on an institution's abusive practices. As Pugsley and Hardman (1975) and Orlans, et al. (1974) note, such information exchange could serve as an "early warning" system to alert regulatory bodies to emerging problems.

CONCLUDING COMMENT

The body of literature which has been reviewed and synthesized may be briefly characterized by several observations.

First, there is a wealth of "expert opinion" about (a) the nature of consumer protection needs in postsecondary education and (b) possible improvement mechanisms. But there is almost no empirical evidence to suggest the actual extent of presumed institutional abuses or the degree to which consumers themselves perceive various institutional practices to be abusive. Congressional and regulatory commission hearings, media exposes and scandals about high loan default rates provide interesting case studies and circumstantial evidence but very little comprehensive data.

Second, regulatory bodies have an understandable tendency to either ignore the importance of eligibility limitation and suspension decisions (focusing instead on the less thorny eligibility determination area) or to suggest that these decisions should really be made by some other agency. The entire area of monitoring, enforcement, and termination, without which there can be no serious redress or regulatory intervention on behalf of consumers, is characterized by buck passing.¹ Recently cases of blatant and self-admitted consumer abuse and fraud have been allowed to persist for months because no single party in the "tripartite" regulatory system was able (or willing?) to step in and suspend the operations of the schools concerned. Regulatory approaches are further threatened by a growing and politically powerful national reaction against sprawling and insensitive governmental guidelines, reporting requirements, and red tape.

¹with the notable exception of a small but hardy group of state administrators of private vocational schools, who are asking for more buck stopping authority.

Third, there is very limited sensitivity to the fact that education is a specialized, intangible service that may not be susceptible to traditional, marketplace consumer protection devices. Millard (in ECS, 1974b) was one sensitive and eloquent exception.

There is very clearly a difference between the student as a person and consumer in relation to General Motors or Post Toasties. The student's relation to his education is a much more complex relationship. The student himself is involved in a unique way in the process of his education. He is not only consumer, he is participant, and he is product.... This does not in any way denigrate consumer protection in postsecondary education, but it does involve the recognition that the problem we are dealing with, while an essential problem, does have to be related to the other aspects of personality, other aspects of life involvement. (p. 11)

Fourth, and finally, the important and potentially more promising non-regulatory approach to educational consumer protection suffers from a dangerously narrow fixation with "providing consumers with better information." This fixation usually manifests itself in: (a) extensive lists of things individuals "ought to know in making better postsecondary education decisions;" (b) various kinds of clearinghouses and mechanisms to serve as central repositories and distribution channels for masses of data; and (c) invariably, calls for improved guidance and counseling in the secondary schools. All of these things are no doubt needed. But the potential for immediate major impact would seem to be in (a) separating the more narrow consumer protection interests from those of educational and career decision making in general; (b) identifying a very limited set of things individuals ought to know and be able to do to avoid or deal properly with abusive institutional practices; (c) identifying techniques individuals can use to secure and use such data themselves; and (d) widely disseminating basically self-instructional materials for teaching these techniques, which can then be made available when the individual is actually in the process of making an educational decision. This approach appears to have promise for several reasons. It avoids the need for expensive and obtrusive

institutional monitoring and regulatory mechanisms. It would be targeted at a very specific, identifiable decision situation, so that individuals would have an immediate need and a tangible incentive for acquiring the requisite knowledge and skills. They might even be willing to pay for it. In addition, there would be motivation for all sincerely reputable postsecondary institutions to examine their own policies and practices regarding consumer protection; and there would be a further incentive for them to see that the entire universe of persons considering postsecondary education had access to the self-instructional materials, so that the minority of genuinely unconcerned school administrators (their competitors for enrollees) could be forced from the educational marketplace. Finally, the approach is in keeping with a growing popular awareness that the powers of government are not limitless; it is not possible to protect citizens from all possible social evils. Citizens must make investments of their own time and talents to promote their own welfare; government must only insure that the opportunities for these investments are available for all.

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APPENDIX A:

LIST OF UNREFERENCED RESOURCES

APPENDIX A

List of Unreferenced Resources

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